

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL MILLER

Plaintiff,

v.

COUNTY OF LANCASTER, *et al.*,

Defendants.

Civ. No.: 5:24-cv-05338-JFL

Judge Joseph F. Leeson, Jr.

**PLAINTIFF’S MOTION TO REQUIRE FINDINGS OF FACT AND
CONCLUSIONS OF LAW IN DISPOSITION OF RULE 12 MOTIONS**

TO THE HONORABLE COURT:

Plaintiff Michael Miller, proceeding pro se, respectfully moves this Court to issue findings of fact and conclusions of law pursuant to Rule 52(a) when ruling on Defendants’ pending Rule 12(b)(1) and Rule 12(b)(6) motions. Judge Leeson has refused to dispose of these motions for nearly 90 days since their filing on November 20, 2024, obstructing due process and Plaintiff’s access to the courts. This prolonged inaction effectively operates as a de facto dismissal of Plaintiff’s First Amendment claims, functionally granting Defendants’ Rule 12 objections without legal justification or proper adjudication.

Rule 52(a)(3) states that findings and conclusions are generally not required on Rule 12 motions “unless these rules provide otherwise.” In this case, Rule 52

applies because Plaintiff's claims invoke the First Amendment, which requires heightened scrutiny and justification under Supreme Court precedent. In *Zwickler v. Koota*, 389 U.S. 241 (1967), the Supreme Court held that abstention is improper in cases where First Amendment rights are at stake, and federal courts have a duty to adjudicate such claims. Further, in *Bitler v. Robeson Township*, Civ. No. 5:24-cv-2177 (E.D. Pa. July 25, 2024), Judge Leeson recognized that in First Amendment cases, the burden shifts to the government to justify restrictions on speech. If the Court intends to depart from these binding precedents, Rule 52(a) requires a written explanation.

The accompanying Brief in Support explains the legal basis for this motion. Plaintiff also requests oral argument under Local Rule 7.1(f).

WHEREFORE, Plaintiff respectfully requests that the Court:

1. Issue findings of fact and conclusions of law under Rule 52(a) when ruling on Defendants' Rule 12 motions.
2. Rule on the pending Rule 12 motions without further delay.
3. If the motions are denied, order Defendants to file an Answer pursuant to Rule 12(a)(4).
4. Hold a hearing on this matter if necessary.

5. Reassign the case to another judge if necessary.
6. Grant such other relief as the Court deems just and proper.

Respectfully Submitted,

/s/ Michael Miller

Michael Miller

108 N. Reading Rd., Ste F, 246

Ephrata, Pennsylvania 17522

717-388-0163

reaganfive@protonmail.com

Date: February 21, 2025

CERTIFICATE OF SERVICE

I, Michael Miller, hereby certify that on this day I served copies of the foregoing document to all parties or their counsel electronically through the Court's e-filing system.

Respectfully Submitted,

/s/ Michael Miller

Michael Miller

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Date: February 21, 2025